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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,505	07/23/2003	Patrick Jeandel	240696US6	7402

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EXAMINER

BRITTAIN, JAMES R

ART UNIT PAPER NUMBER

3677

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,505

Applicant(s)

JEANDEL, PATRICK

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) 5-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

Claims 5-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on December 22, 2004.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3 and 4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has not identified how to distinguish split leather from any other leather. The drawings show no characteristics other than a uniform thickness.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3 and 4 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has provided no discriminant to distinguish the characteristics of “split leather” from other types of leather or if there is any difference, so applicant has not served notice as to the scope of the claims as applicant does not state what characteristics unequivocally identify “split leather”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Johnson (US 1891989) in view of Andler (US 2368911) and Pindek (US 2186809).

Johnson (figures 1, 2, 4) teaches a zipper for joining two strips comprising two rows of teeth 4 configured to mutually engage with each other under the action of a slider and applied respectively to one of the edges of each of the two strips, the material of the two strips capable of being of leather (page 1, lines 35-40), characterized in that the strip is formed by a piece folded in two, in that the area forming a fold is filled with a material of chosen thickness as shown by the central area of the beaded edge 11 surrounded by the folded leather having a different cross-hatching than the leather and in that the teeth are applied at least partially around the said fold area thus filled. The difference is that while material is placed within the folded portion of the leather strips so as to form the beaded edge 11, it is not stated that the material is a rod the material of the strips forms tapes and it is not stated that the leather is “split leather”. However, a beaded edge is commonly formed by a beading cord and Andler (figures 4, 5) is evidence of the

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well known use of a beading cord 22 acting as a rod to form the beaded edge in the folded tapes that are adhesively secured together so as to quickly form a secure beaded edge (page 2, col. 1, lines 18-47). Further, it is common to dispense with the tapes and mount the teeth directly to the wall of an article as Pindek (figures 1-4) teaches to be conventional (page 2, col. 1, lines 52-58) for example when utilizing the zipper on such disparate articles as a satchel (page 2, col. 1, lines 15-19) or tent (page 2, col. 1, lines 52-57). As it would be beneficial in the construction of Johnson to quickly form the beaded edge, it would have been obvious to utilize a beaded cord as a rod to form the beaded edge as taught by Andler to be useful to quickly form the beaded edge in conjunction with adhesively securing the folded strips together and further utilize the structure to form the wall of an article without a tape as taught to be a useful construction by Pindek, who finds such to be a principle advantage and as to the use of split leather, Johnson teaches that it is conventional to strips of leather and as leather would have some variation in thickness, it would have been obvious to utilize "split leather" since the article of Johnson is inherently capable of being used on varying thicknesses of leather and provides a slide fastener mounted on leather.

Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Johnson (US 1891989) in view of Andler (US 2368911) and Pindek (US 2186809) as applied to claim 1 above, and further in view of Brozek (US 2267370).

Further modification of the zipper of Johnson so that the material about which the leather is folded is cotton would have been obvious in view of Brozek (figures 3, 5) teaching the use of cotton cord 12 as a conventional material to form the bead upon which the teeth of the zipper are secured.

Response to Arguments

Applicant's arguments filed in response to the last office action have been fully considered but they are not persuasive.

Applicant argues that the method of treating strips by splitting the leather in order to even up the thickness of the strips identifies the method of making "split leather". However, the specification does not state whether the skin is sliced in layers, so as to separate the layers of skin or whether the skin is sliced in strips so that adjacent strips have edges of matching height and therefore of a more uniform thickness from strip to adjacent strip. While applicant provides a definition from an on-line glossary of terms of art as to indicate the skin is sliced in layers, there is no date provided by applicant to establish the term as defined as of the filing date of this application. Applicant does not provide an enabling disclosure.

A traversal of the rejection of the claims under 35 U.S.C. 112, second paragraph, indicates that "split leather" is a term of art that a person of ordinary skill would understand what is meant by the term. The argument is unpersuasive because applicant has provided no discriminant to distinguish the characteristics of "split leather" from other types of leather or if there is any difference, so applicant has not served notice as to the scope of the claims as applicant does not state what characteristics unequivocally identify "split leather". The pending claims are article claims and not method claims and there is criteria to unequivocally identify "split leather" from leather made from another process or other animals or parts of animals.

Applicant argues that the device of Johnson does not teach the use of "split leather". However, the device of Johnson mounts the zipper teeth on leather and while the claims are indefinite, applicant's drawings show no characteristics different from that of Johnson. Applicant's drawings show a uniform thickness and are consistent with what is shown by

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Johnson. Johnson shows the use of leather and while silent as to whether the leather is split leather, the treatment of leather so as to make it more uniform in thickness and therefore more cloth-like would not in any way be contrary to the use of a particular type of leather with the zipper of Johnson as it would be obvious to use a type of leather with a uniformity of thickness more cloth-like since Johnson also uses the zipper teeth on cloth.

Applicant argues that Johnson teaches away from the use of leather as forming the wall of an article because the leather is used to form the stringer, but this is not persuasive because Pindek (figures 1-4) teaches mounting the teeth on the wall of the article to be conventional (page 2, col. 1, lines 52-58) for example when utilizing the zipper on such disparate articles as a satchel (page 2, col. 1, lines 15-19) or tent (page 2, col. 1, lines 52-57). While used on fabric, the teaching is clearly applicable to leather articles.

Applicant argues that Andler also teaches away from forming the strips from split leather. Obviously, Andler utilizes fabric not leather. Andler is used to show evidence of the well known use of a beading cord 22 acting as a rod to form the beaded edge in the folded tapes that are adhesively secured together so as to quickly form a secure beaded edge (page 2, col. 1, lines 18-47) and this is inherently applicable to leather as well.

Brozek is not utilized for the “split leather”, it is used to show the use of cotton cord 12 as a conventional material to form the bead upon which the teeth of the zipper are secured and this is inherently applicable to leather as well.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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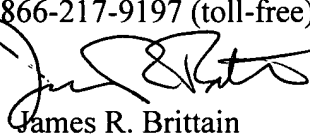
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB